

AMENDED LOCAL COURT RULE #1
EFFECTIVE FEBRUARY 1, 2002

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, and the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issue the following Orders and Local Court Rule, effective February 1, 2002, and thereafter until further order:

SULLIVAN COUNTY PLAN FOR ALLOCATION OF JUDICIAL RESOURCES

A. Sullivan Circuit Court: The Sullivan Circuit Court shall have exclusive jurisdiction over the following Court dockets:

1. Juvenile;
2. Adoptions;
3. Guardianships;
4. Estates; and
5. Civil Commitments

B. Sullivan Superior Court: The Sullivan Superior Court shall have exclusive jurisdiction over the following Court dockets:

1. Small Claims;
2. Traffic Violations;
3. Infractions; and
4. Felony offenses charged under I.C. 9-30-5-3 and I.C. 9-30-5-4

C. Concurrent Jurisdiction: The Sullivan Circuit Court and the Sullivan Superior Court will each have jurisdiction over the following Court dockets:

1. Civil;
2. Criminal Offenses;
3. Civil Venue;
4. Criminal Venue; and
5. Protective Orders

D. Random Case Assignment: Cases involving concurrent jurisdiction shall be assigned randomly by the Clerk of the Sullivan Circuit and Superior Courts. This shall be accomplished by utilizing JTS Case Tracking Software which randomly assigns cases on a 50:50 ratio between the Sullivan Circuit Court and the Sullivan Superior Court. However, there are some instances in which random case assignment will not be conducted. Those exceptions are as follows:

1. Criminal Felony Case Assignment:
 - A. As stated in (B)(4), the Sullivan Superior Court shall have exclusive jurisdiction over all felony cases filed under I.C. 9-30-5-3 and I.C.

9-30-5-4. The Clerk of the Courts will override the random case assignment process and assign all felony cases filed under I.C. 9-30-5-3 and I.C. 9-30-5-4 to the Sullivan Superior Court.

B. If a criminal non-support of a dependent child case is filed and a Sullivan Court has a pending case in which the child support obligation was either established or enforced, then the criminal non-support case shall be filed in the same Court in which the child support obligation was established or enforced. The Clerk of the Courts will override the random case assignment process and assign the criminal non-support case to the appropriate Court.

2. Criminal Misdemeanor Case Assignment: Random case assignment will be employed for all criminal misdemeanors filed. However, rather than a ratio of 50:50, the Clerk will assign these cases at a ratio of 75:25 with seventy-five percent (75%) of the criminal misdemeanor cases being filed in the Sullivan Superior Court and twenty-five percent (25%) of the criminal misdemeanor cases being filed in the Sullivan Circuit Court.
3. Companion Civil Filings: In the event two or more civil cause are identified by the filing party as companion cases, arising from the same circumstances, with similar issues of fact and law, the Clerk will utilize random case assignment to assign a Court to the first cause. The Clerk of the Courts will then override the random case assignment process and assign any companion cases the same Court
4. Subsequent Criminal Filings: The Circuit Court and the Superior Court state that the policy of the Courts is to have all criminal cases pending against an individual filed in the same Court. Therefore, when a criminal case is filed, the Prosecuting Attorney and the Clerk shall determine if the accused has additional criminal charges pending. If there is another criminal charge pending in either Court, the new criminal charge shall be filed in the same Court where charges are pending. When the new criminal charge is filed in the Court where additional criminal charges are pending, the Clerk shall override the random case assignment and assign the new criminal charge to the appropriate Court.

E. Transfer: The Judge of the Sullivan Circuit Court or the Sullivan Superior Court, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign any case to the other Court, subject to acceptance by the receiving Court.

F. Refilings: When the filing party and/or the State of Indiana dismisses a case and chooses to refile that case, the case shall be reassigned to the Court from which the dismissal was taken.

G. Reassignment of Judges in Circuit Court: The following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Sullivan Circuit Court: the Honorable Thomas E. Johnson, Sullivan Superior Court; the Honorable J. David Holt; Greene Superior Court; the Honorable David K. Johnson, Greene Circuit Court; and the Honorable Jim R. Osborne, Knox Superior Court, Division II. By order of adoption of these rules, the Indiana Supreme Court, pursuant to I.C. 33-2.1-7-8, temporarily transfers the above judges to the Sullivan Circuit Court for the purpose of reassignment of felony and misdemeanor cases. In the event it becomes necessary to reassign a felony or misdemeanor case, the judges will be reassigned in consecutive order to the above noted judges.

H. Reassignment of Judges in Superior Court: The following individuals have agreed to serve in the event it becomes necessary to reassign a felony or misdemeanor case in the Sullivan Superior Court: the Honorable P.J. Pierson, Sullivan Circuit Court; the Honorable J. David Holt; Greene Superior Court; the Honorable David K. Johnson, Greene Circuit Court; and the Honorable Jim R. Osborne, Knox Superior Court, Division II. By order of adoption of these rules, the Indiana Supreme Court, pursuant to I.C. 33-2.1-7-8, temporarily transfers the above judges to the Sullivan Superior Court for the purpose of reassignment of felony and misdemeanor cases. In the event it becomes necessary to reassign a felony or misdemeanor case, the judges will be reassigned in consecutive order to the above noted judges.

I. Appointment of Special Judge: In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding require appointment by the Indiana Supreme Court of a Special Judge, such presiding judge may request the Indiana Supreme Court for such appointment.

The effective date of this Amended Local Court Rule #1 shall be February 1, 2002.

IT IS SO ORDERED this 1st day of February, 2002.

P. J. Pierson

P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson

THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

AMENDED COURT RULE #2
(Effective February 1, 2003)

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, and the Presiding Magistrate of the Sullivan Circuit/Superior Courts, now issue the following Order, effective February 1, 2003, and thereafter until further Order:

BOND SCHEDULE

The Courts now Order that the Bond Schedule for the Sullivan Circuit Court and the Sullivan Superior Court shall be as follows:

| | |
|--------------------------|-------------|
| Class "A" Felony | \$50,000.00 |
| Class "B" Felony | \$30,000.00 |
| Class "C" Felony | \$15,000.00 |
| Class "D" Felony | \$ 5,000.00 |
| All Misdemeanor Offenses | \$ 3,000.00 |

The Court further Orders that in lieu of property of surety bonds in the face amount shown above, cash bonds in the amount of 10% of the amounts shown above will be accepted.

HOWEVER, if a Criminal Defendant has posted a bond on a previous unrelated pending charge and is re-arrested, he/she shall not be entitled to post a second cash bond in the amount of 10% of the amounts shown above. Bond on the subsequent charges shall be set pursuant to this Bond Schedule without 10% cash allowed. Cash Bonds will only be accepted from the Defendant and said cash bonds will be treated as property of the Defendant.

It is the further Order of the Courts that all Criminal Defendants arrested without an arrest warrant shall be bonded to appear in the Sullivan Superior Court, Second Floor, Sullivan County Courthouse, Sullivan, Indiana, unless designated to appear otherwise by the Sullivan County Prosecutor.

The Court now directs the Sheriff of Sullivan County that in any case involving the offense of Battery or Domestic Abuse, that an additional term of the Criminal Defendant's cash or surety bond shall be that the Defendant have NO CONTACT with the victim.

All prior Bond Schedules are hereby deemed revoked.

ALL IS SO ORDERED this 30th day of January, 2003.

P. J. Pierson
P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson
THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

AMENDED LOCAL COURT RULE #3
EFFECTIVE MARCH 1, 2002

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, and the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issue the following Orders and Local Court Rule, effective March 1, 2002, and thereafter until further order:

From this date forward, in all Contested Dissolution and Contested Post-Dissolution Modifications, or in any matter financially affecting the parties in the cause of action, the Court Orders the parties to file an exchange on or before five (5) days prior to the date of the Contested Hearing/Trial, a pleading entitled "STATEMENT OF CONTESTED ISSUES" which shall include the following information, as applicable:

1. An itemized statement of the parties' gross income from all sources per week.
2. An itemized statement of the parties' expenses per week.
3. A list of all properties, real and personal, that the parties possessed at the time of separation along with the parties' own value of each item.
4. A list of all properties, real and personal, that party is requesting the Court award to the Petitioner/Plaintiff, including the value of each item.
5. A list of all properties, real and personal, that the party is requesting the Court award to Respondent/Defendant, including the value of each item.
6. A list of all marital debts, including the balance of the debt, the name of the creditor, and the method of payment.
7. A list of the marital debts the party is requesting the Court Order the Petitioner/Plaintiff to assume, including the balance of the debt.
8. A list of the marital debts the party is requesting the Court Order the Respondent/Defendant to assume, including the balance of the debt.
9. If the parties have children, a statement regarding the parties' position on the issues of custody, support, and visitation. A proposed Child Support Worksheet should also be attached to the STATEMENT OF CONTESTED ISSUES.
10. Any other statement/explanation of property, income, and/or expenses that the party wishes for the Court to consider during the course of the Contested Hearing/Trial.

In the event that the parties or a party fails to file and exchange a STATEMENT OF CONTESTED ISSUES five (5) days prior to the date of the Contested Hearing/Trial, the Court in

its discretion, will decide whether this cause shall be heard at the Contested Hearing/Trial scheduled or continued for not more than thirty (30) days or in accordance to the Judge's trial calendar.

This pleading must be verified by the party submitting the same.

The effective date of this Amended Local Court Rule #3 shall be March 1, 2002.

IT IS SO ORDERED this 26th day of February, 2002.

P. J. Pierson

P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson

THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

LOCAL COURT RULE #4

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, and the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issue the following Order and Local Court Rule, effective January 1, 2006, and thereafter until further order:

NOTICE OF SELECTION FOR JURY POOL AND SUMMONS FOR JURY SERVICE

Not later than seven (7) days after the date of the drawing of names from the jury pool, the Jury Administrator for the Sullivan Circuit Court and the Sullivan Superior Court shall mail to each person whose name is drawn a juror qualification form and notice of the period during which any service may be performed. The Judges of Court hereby select the following procedure for Summoning jurors:

- A. Two Tier Notice and Summons
The Jury Administrator for the Sullivan Circuit Court and the Sullivan Superior Court may send Summons at a later time to the prospective jurors. Since the Jury Administrator will only send the jury qualification form and notice first, the Jury Administrator shall summon prospective jurors at least one (1) week before service.

The Summons shall include the following information: directions to the Court, parking, public transportation, compensation, attire, meals, and how to obtain auxiliary aids and services required by the American With Disabilities Act. The Judge may direct the Jury Administrator to include a questionnaire to be completed by each prospective juror.

When in the court of jury selection it becomes apparent that additional prospective jurors will be required to complete jury selection, the Judge may Order prospective jurors to appear upon less notice.

SO ORDERED, this 20th day of September, 2005.

P. J. Pierson
P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson
THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

ORDER REPEALING LOCAL COURT RULE #5

The Court now finds that Local Court Rule #5 is no longer necessary that it is now incorporated into Amended Local Court Rule #1. Therefore, the Court now Orders Local Court Rule #5 repealed.

SO ORDERED, this 8th day of September, 2003.

P. J. Pierson

P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson

THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

LOCAL COURT RULE #6

The Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issues the following Order and Court Rule effective October 15, 1992:

The Court now Orders that any Plaintiff wishing to file a second Motion for Proceedings Supplemental must file and Affidavit for Filing of Second Proceedings Supplemental, which states the Plaintiff has knowledge the Defendant has assets, property, or income that can be used to satisfy the judgment. Said Affidavit shall include the name and address of Defendant's Employer, if known.

Failure of the Plaintiff to file said Affidavit, the Clerk is Ordered not to accept the filing of the Motion for Proceedings Supplemental.

SO ORDERED, this 15th day of October, 1992.

P. J. Pierson
P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson
THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

AMENDED LOCAL COURT RULE #7

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, and the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issue the following local Court Rule, effective March 21, 2001:

COURT REPORTER SERVICES

- (1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including, but not limited to preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a Court Reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
- (3) Work space means that portion of the court's facilities dedicated to each Court Reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) Recording means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- (7) Gap hours worked means those hours worked that are in excess of the regular hours worked, but hours not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.
- (9) Work week means a seven day consecutive day week that consistently begins on Sunday and ends on the following Saturday.
- (10) Court means the particular court for which the Court Reporter performs services. Court may also mean all of the courts in Sullivan County.
- (11) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) Private transcript means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

(14) Expedited transcript means a transcript which has been requested to be completed within fourteen (14) days.

SECTION TWO: Salaries and Per Page Fees

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours, or overtime hours. The supervising court may enter into a written agreement with the Court Reporter which outlines the manner in which the Court Reporter is to be compensated for gap and overtime hours.

(2) The standard per page fee a Court Reporter may charge for the preparation of a county indigent transcript shall be \$4.75; the Court Reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

(3) The standard per page fee a Court Reporter may charge for the preparation of a state indigent transcript shall be \$4.74.

(4) The standard per page fee a Court Reporter may charge for the preparation of a private transcript shall be \$4.75.

(5) The maximum per page fee a Court Reporter may charge for the preparation of an expedited transcript shall be Eight Dollars (\$8.00); and an additional \$3.00 per page fee where the transcript must be prepared within 3 working days.

(6) The standard per page fee a Court Reporter may charge for the copy of a transcript shall be one-half (½) of the cost of the original transcript.

(7) Pursuant to T.R. 74(A)(C) as a requirement of a Court Reporter's job to prepare transcripts, the Court Reporter shall be allowed to use all equipment, work space and supplies provided for all regular duties required of the Court Reporter. Reimbursement for use of equipment, work space and supplies shall be limited to private practice.

(8) Each Court Reporter shall report, at least on an annual basis, all transcript fees received for preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

SECTION THREE: Private Practice

If a Court Reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, the Court Reporter may elect to perform such private practice work outside of regular working hours and on private equipment and shall pay no fees to the County. However, if the Court Reporter elects to use court equipment for such purposes, the Court Reporter shall reimburse the court for the use of the equipment, work space, and supplies at the rate of five cents (\$.05) per page.

ADOPTED at Sullivan County, Indiana, for the Sullivan Circuit and Superior Courts this 5th day of April, 2001.

P. J. Pierson

P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson

THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

LOCAL COURT RULE #8

The Presiding Judge of the Sullivan Circuit Court, P.J. Pierson, and the Presiding Judge of the Sullivan Superior Court, Thomas E. Johnson, now issue the following local Court Rule effective January 15, 1999 and thereafter until further order:

In order to expedite the setting of hearings and to eliminate the need for motions to continue hearings in all civil matters, the Courts hereby Order that all “Motions to Set Hearing” and “Motions to Continue” include dates at least sixty (60) days in the future that the party filing said motions will **not** be available. Also, when filing “Motions to Continue”, the party requesting a continuance shall inform the Court whether the continuance is agreed to or objected to by the other party and include dates the opposing party is **not** available.

P. J. Pierson
P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson
THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

IN THE SULLIVAN CIRCUIT/SUPERIOR COURTS

IN THE MATTER OF THE)
)
VISITATION GUIDELINES FOR)
)
SULLIVAN COUNTY, INDIANA)

ORDER ADOPTING AMENDED LOCAL RULE 9
PARENTING TIME GUIDELINES FOR SULLIVAN COUNTY
EFFECTIVE MAY 1, 2001

The Indiana Supreme Court having issued an Order Adopting Parenting Time Guidelines on December 22, 2000, and upon review of said Parenting Time Guidelines, we, the undersigned Judges of Sullivan County, hereby adopt Amended Local Rule 9 entitled "Parenting Time Guidelines For Sullivan County" which incorporates the Supreme Court's Order Adopting Parenting Time Guidelines hereby making the same the visitation guidelines to be utilized by the Sullivan County Courts.

WHEREAS, the Courts of Sullivan County adopted Amended Local Court Rule 9 entitled Parenting Time Guidelines For Sullivan County effective May 1, 2001, a copy of said Amended Local Court Rule 9 being attached hereto and made a part hereof.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the attached Amended Local Court Rule 9, and such amendments to same as the Courts may hereafter make, shall constitute the Parenting Time Guidelines For Sullivan County.

ALL IS SO ORDERED this 1st day of May, 2001.

P. J. Pierson
P.J. PIERSON, Judge of the
Sullivan Circuit Court

Thomas E. Johnson
THOMAS E. JOHNSON, Judge of the
Sullivan Superior Court

Indiana Parenting Time Guidelines

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PREAMBLE

The Indiana Parenting Time Guidelines are based on the premise that it is usually in a child's best interest to have frequent, meaningful and continuing contact with each parent. It is assumed that both parents nurture their child in important ways, significant to the development and well being of the child. The Guidelines also acknowledge that scheduling parenting time is more difficult when separate households are involved and requires persistent effort and communication between parents to promote the best interest of the children involved. The purpose of these guidelines is to provide a model which may be adjusted depending upon the unique needs and circumstances of each family. These guidelines are based upon the developmental stages of children. The

members of the Domestic Relations Committee of the Judicial Conference of Indiana developed the guidelines after reviewing the current and relevant literature concerning visitation, the visitation guidelines of other geographic areas, and the input of child development experts and family law practitioners. Committee members also relied upon data from surveys of judges, attorneys, and mental health professionals who work with children, reviews of court files, and a public hearing.

A child whose parents live apart has special needs related to the parent-child relationship. A child's needs and ability to cope with the parent's situation change as the child matures. Parents should consider these needs as they negotiate parenting time. They should be flexible and create a parenting time agreement which addresses the unique needs of the child and their circumstances. The Indiana Parenting Time Guidelines are designed to assist parents and courts in the development of plans and represent the minimum time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

Commentary

1. Use of Term "Parenting Time." *Throughout these Guidelines the words "parenting time" have been used instead of the word "visitation" so as to emphasize the importance of the time a parent spend with a child. The concept that a non-custodial parent "visits" with a child does not convey the reality of the continuing parent-child relationship.*

2. Minimum Time Concept. *The concept that these Guidelines represent the minimum time a non-custodial parent should spend with a child should not be interpreted as a limitation of time imposed by the court. They are not meant to foreclose the parents from agreeing to, or the court from granting, such additional or reduced parenting time as may be reasonable in any given case. In addressing all parenting time issues, both parents should exercise sensibility, flexibility and reasonableness.*

3. Purpose of Commentary Following Rule. *Throughout these Guidelines many of the rules are followed by a commentary further explaining the rule or setting forth the child centered philosophy behind the rule. The commentary is not an enforceable rule but provides guidance in applying the rule.*

SCOPE OF APPLICATION

1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development.

Commentary

Variance from the Indiana Parenting Time Guidelines does not alone constitute good cause for amendment of an existing visitation order; however, a court or parties to a proceeding may refer to these guidelines in making changes to a parenting time order after the effective date of the guidelines.

2. Presumption. There is a presumption that the Indiana Parenting Time Guidelines are applicable in all cases covered by these guidelines. Any deviation from these Guidelines by either the parties or the court must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case.

Commentary

The written explanation need not be as formal as Findings of Fact and Conclusions of Law; however, it must state the reason(s) for the deviation.

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A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

1. To know that the parents' decision to live apart is not the child's fault.
2. To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
3. To be free from having to side with either parent and to be free from conflict between the parents.

4. To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
5. To enjoy regular and consistent time with each parent.
6. To be financially supported by each parent, regardless of how much time each parent spends with the child.
7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.
8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

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SECTION I. GENERAL RULES APPLICABLE TO PARENTING TIME

A. COMMUNICATIONS

1. Between Parents. Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.

2. With A Child Generally. A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used

by one parent to spy or report on the other. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other in or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.

3. With A Child By Telephone. Both parents shall have reasonable phone access to their child at all times. Telephone communication with the child by either parent to the residence where the child is located shall be conducted at reasonable hours, shall be of reasonable duration, and at reasonable intervals, without interference from the other parent.

If a parent uses an answering machine, voice mail or a pager, messages left for a child shall be promptly communicated to the child and the call returned.

Commentary

Parents should agree on a specified time for telephone calls so that a child will be available to receive the call. The parent initiating the call should bear the expense of the call. A child may, of course, call either parent, though at reasonable hours, frequencies, and at the cost of the parent called if it is a long distance call.

Examples of unacceptable interference with communication include a parent refusing to answer a phone or refusing to allow the child or others to answer; a parent recording phone conversations between the other parent and the child; turning off the phone or using a call blocking mechanism or otherwise denying the other parent telephone contact with the child.

4. With A Child By Mail. A parent and a child shall have a right to communicate privately by e-mail and faxes, and by cards, letters, and packages, without interference by the other parent.

Commentary

A parent should not impose obstacles to mail communications. For example, if a custodial parent has a rural address, the parent should maintain a mailbox to receive mail at that address. A parent who receives a communication for a child shall promptly deliver it to the child.

5. Emergency Notification. For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: An itinerary of travel dates, destinations, and places where the child or

the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

B. IMPLEMENTING PARENTING TIME

1. Transportation Responsibilities. Unless otherwise agreed between the parents, the non-custodial parent shall provide transportation for the child at the start of the scheduled parenting time and the custodial parent shall provide transportation for the child at the end of the scheduled parenting time.

Commentary

1. *Presence Of Both Parents.* *Both parents should be present at the time of the exchange and should make every reasonable effort to personally transport the child. On those occasions when a parent is unable to be present at the time of the exchange or it becomes necessary for the child to be transported by someone other than a parent, this should be communicated to the other parent in advance if possible. In such cases, the person present at the exchange, or transporting the child, should be a responsible adult with whom the child is familiar and comfortable.*

2. *Distance/Cost As Factors.* *Where the distance between the parents' residences is such that extended driving time is necessary, the parents should agree on a location for the exchange of the child. The cost of transportation should be shared based on consideration of various factors, including the distance involved, the financial resources of the parents, the reason why the distances exist, and the family situation of each parent at that time.*

3. *Parental Hostility.* *In a situation where hostility between parents makes it impracticable to exchange a child at the parents' residences, the exchange of the child should take place at a neutral site.*

2. Punctuality. Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child.

Commentary

Punctuality is a matter of courtesy. Parents should make every effort to pick up and return a child at the agreed time, and not substantially earlier or later. Parents should recognize, however, that circumstances occur that require leeway in the scheduled times. Phone calls are always appropriate when there will be a delay.

3. Clothing. The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing may be available to the child.

Commentary

It is the responsibility of both parents to ensure their child is properly clothed. The non-custodial parent may wish to have a basic supply of clothing available for the child at his or her home.

4. Privacy of Residence. A parent may not enter the residence of the other, except by express invitation, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

C. CHANGES IN SCHEDULED PARENTING TIME

Introduction

Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. Scheduled Parenting Time To Occur As Planned. Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. If a parent is unable to provide personal care for the child during scheduled parenting time,

then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.

Commentary

Parents should understand it is important for a child to experience consistent and ongoing parenting time. A child is entitled to rely on spending time with each parent in a predictable way and adjusts better after a routine has been established and followed. A parent who consistently cancels scheduled parenting time sends a very harmful message to the child that the child is not a priority in that parent's life. In addition to disappointing a child, the voluntary cancellation of scheduled parenting time by one parent may interfere with the plans of the other parent or cause the other parent to incur child care and other costs.

2. Adjustments to Schedule / "Make Up" Time. Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who becomes aware of the circumstance shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule.

If an adjustment results in one parent losing scheduled parenting time with the child, "make-up" time should be exercised as soon as possible. If the parents cannot agree on "make-up" time, the parent who lost the time shall select the "make-up" time within one month of the missed time.

Commentary

There will be occasions when scheduled parenting times may need to be adjusted because of illnesses or special family events such as weddings, funerals, reunions, and the like. Each parent should accommodate the other in making the adjustment so that the child may attend the family event. After considering the child's best interests, the parent who lost parenting time may decide to forego the "make-up" time.

3. Opportunity for Additional Parenting Time. When it becomes necessary that a child be cared for by a person other than a parent or a family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time. The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost.

Commentary

The rule providing for opportunities for additional parenting time promotes the concept that a child receives greater benefit from being with a parent rather than a child care provider. It is also intended to be practical. When a parent's work schedule or other regular recurring activities require hiring a child care provider, the other parent should be given the opportunity to provide the care. Distance, transportation or time may make the rule impractical. Parents should agree on the amount of child care time and the circumstances that require the offer be made.

D. EXCHANGE OF INFORMATION

Commentary

A child may suffer inconvenience, embarrassment, and physical or emotional harm when parents fail to actively obtain and share information. Parents should take the initiative to obtain information about their child from the various providers of services.

1. School Records. Each parent shall promptly provide the other with copies of a child's grade reports and notices from school as they are received. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child.

Commentary

Under Indiana law, both parents are entitled to direct access to their child's school records, Indiana Code ' 20-10.1-22.4-2.

2. School Activities. Each parent shall promptly notify the other parent of all school activities. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.

Commentary

The opportunity for a child to attend a school function should not be denied solely because a parent is not able to attend the function. In such instance, the child should be permitted to attend the function with the available parent. Scheduled parenting time should not be used as an excuse to deny the child's participation in school related activities, including practices and rehearsals.

3. Other Activities. Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A

parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.

Commentary

A child is more likely to enjoy these experiences when supported by both parents. Each parent should have the opportunity to participate in other activities involving the child even if that activity does not occur during his or her parenting time. This includes activities like church functions, athletic events, scouting, school photographs, etc.

4. Health Information. If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent.

Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention.

If a child is taking prescription or nonprescription medication, the custodial parent shall provide the noncustodial parent with a sufficient amount of medication with instructions whenever the noncustodial parent is exercising parenting time.

The custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.

Commentary

Each parent has the responsibility to become informed and participate in ongoing therapies and treatments prescribed for a child and to ensure that medications are administered as prescribed. An evaluation or treatment for a child includes medical, dental, educational, and mental health services.

Under Indiana law, both parents are entitled to direct access to their child's medical records, Indiana Code ' 16-39-1-7; and mental health records, Indiana Code ' 16-39-2-9.

4. Insurance. A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.

Commentary

Qualified health care orders may permit the parent to communicate with the medical health care insurance provider.

E. RESOLUTION OF PROBLEMS

1. Disagreements Generally. When a disagreement occurs regarding parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.

2. Mediation. If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court.

3. Child Hesitation. If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

Commentary

In most cases, when a child hesitates to spend time with a parent, it is the result of naturally occurring changes in the life of a child. The child can be helped to overcome hesitation if the parents listen to the child, speak to each other and practically address the child's needs.

Parents should inquire why a child is reluctant to spend time with a parent. If a parent believes that a child's safety is compromised in the care of the other parent, that parent should take steps to protect the child, but must recognize the rights of the other parent. This situation must be promptly resolved by both parents. Family counseling may be appropriate. If the parents cannot resolve the situation, either parent may seek the assistance of the court.

4. Relocation. When either parent considers a change of residence, reasonable advance notice of the intent to move shall be provided to the other parent so they can discuss necessary changes in the parenting schedule as well as the allocation of transportation costs in exercising parenting time which may result from the move.

Commentary

1. *Impact Of Move.* *Parents should recognize the impact that a change of residence may have on a child and on the established parenting time. The welfare of the child should be a priority in making the decision to move.*

2. *Indiana Law.* *Indiana law (Ind. Code § 31-14-13-10 and Ind. Code § 31-17-2-23) require that if a custodial parent intends to move outside Indiana, or more than one hundred (100) miles from the individual's county of residence, a notice of intent to move must be filed with the clerk of the court that issued the custody order, and a copy of the notice must be sent to the other parent.*

5. Withholding Support or Parenting Time. Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

6. Enforcement of Parenting Time

A. Contempt Sanctions. Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment, and/or community service.

B. Injunctive Relief. Under Indiana law, a noncustodial parent who regularly pays support and is barred from parenting time by the custodial parent may file an application for an injunction to enforce parenting time under Ind. Code § 31-17-4-4.

C. Criminal Penalties. Interference with custody or visitation rights may be a crime. Ind. Code § 35-42-3-4.

D. Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

SECTION II. SPECIFIC PARENTING TIME PROVISIONS

INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. The specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

Commentary

1. Assumptions. *The provisions identify parenting time for the non-custodial parent and assume that one parent has sole custody or primary physical custody of a child, that both parents are fit and proper, that both parents have adequately bonded with the child, and that both parents are willing to parent the child. They further assume that the parents are respectful of each other and will cooperate with each other to promote the best interests of the child. Finally, the provisions assume that each parent is responsible for the nurturing and care of the child. Parenting time is both a right and a trust and parents are expected to assume full responsibility for the child during their individual parenting time.*

2. Lack of Contact. *Where there is a significant lack of contact between a parent and a child, there may be no bond, or emotional connection, between the parent and the child. It is recommended that scheduled parenting time be “phased in” to permit the parent and child to adjust to their situation. It may be necessary for an expert to evaluate the current relationship (or lack thereof) between the parent and the child and recommend a schedule.*

3. Age Categories. *The chronological age ranges set forth in the specific provisions are estimates of the developmental stages of children since children mature at different times.*

4. Multiple Children of Different Ages. *When a family has children of different ages, the presumption is that all the children should remain together during the exercise of parenting time. However, the standards set for a young child should not be ignored, and there will be situations where not all of the children participate in parenting time together. On the other hand,*

when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend parenting time, to keep sibling relationships intact.

5. *Non-traditional Work Schedules.* *For parents with non-traditional work schedules, who may regularly work weekends, weekday parenting time should be substituted for the weekend time designated in these rules. Similar consideration should also be given to parents with other kinds of non-traditional work hours.*

A. INFANTS AND TODDLERS

Introduction

The first few years of a child's life are recognized as being critical to that child's ultimate development. Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

Commentary

1. *Both Parents Necessary.* *It is critical that a child be afforded ample opportunity to bond with both parents. A young child thrives when both parents take an active role in parenting. There is a positive relationship between the degree of involvement of mothers and fathers and the social, emotional, and cognitive growth of a child. Both parents can care for their child with equal effectiveness and their parenting styles may make significant contributions to the development of the child. Parents, therefore, must be flexible in creating for each other opportunities to share both the routine and special events of their child's early development.*

2. *Frequency Versus Duration.* *Infants and young children have a limited but evolving sense of time. These children also have a limited ability to recall persons not directly in front of them. For infants, short frequent visits are much better than longer visits spaced farther apart. From the vantage point of the young child, daily contact with each parent is ideal. If workable, it is recommended that no more than two days go by without contact with the noncustodial parent. A parent who cannot visit often may desire to increase the duration of visits but this practice is not recommended for infants. Frequent and predictable parenting time is best.*

1. Overnight Parenting Time. Unless it can be demonstrated that the non-custodial parent has not had regular care responsibilities for the child, parenting time

shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided below.

Commentary

Overnight contact between parents and very young children can provide opportunities for them to grow as a family. At the same time, when very young children experience sudden changes in their night time care routines, especially when these changes include separation from the usual caretaker, they can become frightened and unhappy. Under these circumstances, they may find it difficult to relax and thrive, even when offered excellent care.

When a very young child is accustomed to receiving regular, hands-on care from both parents, the child should continue to receive this care when the parents separate. Regardless of custodial status, a parent who has regularly cared for the child prior to separation should be encouraged to exercise overnight parenting time. When a parent has not provided regular hands-on care for the child prior to separation, overnight parenting time is not recommended until the parent and the child have developed a predictable and comfortable daytime care taking routine.

2. Parenting Time In Early Infancy (Birth through Age 9 Months)

(A) Birth through Age 4 Months:

- (1) Three (3) non-consecutive "days" per week of two (2) hours in length.
- (2) All scheduled holidays of two (2) hours in length.
- (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

Commentary

The custodial home is the preferred place for this parenting time to occur. However, in some cases this may not be practical. Parenting time should occur in a stable place and without disruption of an infant's established routine.

(B) Age 5 Months through Age 9 Months:

- (1) Three (3) non-consecutive "days" per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays of three (3) hours in length. The child is to be returned at least one (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

3. Parenting Time In Later Infancy (Age 10 Months through Age 18 Months)

(A) Age 10 Months through Age 12 Months:

(1) Three (3) non-consecutive “days” per week, with one day on a “non-work” day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

(B) Age 13 Months through Age 18 Months:

(1) Three (3) non-consecutive “days” per week, with one day on a “non-work” day for ten (10) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.

(2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.

(3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

(C) Age 19 Months through 36 Months:

(1) Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate under Rule 1.

(2) One (1) “day” preferably in mid-week for three (3) hours, the child to be returned at least one (1) hour before evening bedtime, unless overnight during the week is appropriate under Rule 1.

(3) All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.

(4) If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time

under these guidelines for at least nine (9) continuous months, overnight parenting time may take place.

B. CHILD 3 YEARS OF AGE AND OLDER

1. Regular Parenting Time

- (1) On alternating weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M. (the times may change to fit the parents' schedules).
- (2) One (1) evening per week, preferably in mid-week, for a period of up to four hours but the child shall be returned no later than 9:00 p.m.
- (3) On all scheduled holidays.

Commentary

Where the distance from the non-custodial parent's residence makes it reasonable, the weekday period may be extended to an overnight stay. In such circumstances, the responsibility of feeding the child the next morning, getting the child to school or day care, or returning the child to the residence of the custodial parent, if the child is not in school, shall be on the non-custodial parent.

2. Extended Parenting Time (Child 3 through 4 Years Old)

Up to four (4) non-consecutive weeks during the year beginning at 4:00 P.M. on Sunday until 4:00 P.M. on the following Sunday, the non-custodial parent to give sixty (60) days advance notice of the use of a particular week.

3. Extended Parenting Time (Child 5 and older)

One-half of the summer vacation. The time may be either consecutive or split into two (2) segments. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

If a child attends year-round school, the periodic breaks should be divided equally between the parents.

If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, unless impracticable because of distance created by out of town vacations.

Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, unless impracticable because of distance created by out of town vacations.

Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time the employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child.

C. PARENTING TIME FOR THE ADOLESCENT AND TEENAGER

1. Regular Parenting Time. Regular parenting time by the noncustodial parent on alternating weekends, during holidays, and for an extended time during the summer months as set forth in the Parenting Time Guidelines (Section II. B.) shall apply to the adolescent and teenager.

Commentary

1. A Teenager Needs Both Parents. *Adolescence is a stage of child development in which parents play an extremely important role. The single most important factor in keeping a teenager safe is a strong connection to the family. The responsibility to help a teenager maintain this connection to the family rests with the parents, regardless of their relationship. The parents must help the teenager balance the need for independence with the need to be an active part of the family. To accomplish this, they must spend time with the teenager. Parents must help the adolescent become a responsible adult. A teenager should safely learn life's lessons if the parents provide the rules which prevent dangerous mistakes.*

2. Anchors of Adolescence. *Regardless of whether the parents live together or apart, an adolescent can be made to feel part of a supportive, helpful family. Things that can help this occur include: **Regular time spent in the company of each parent.** Parents need to be available for conversation and recreation. They need to teach a teenager skills that will help the teen in adult life.*

Regular time spent in the company of siblings. *Regardless of personality and age differences, siblings who spend time together can form a family community that can be a tremendous support in adult life. If the children do not create natural opportunities for them to want to do things together, the parents will need to create reasons for this to occur.*

Emphasis on worthwhile values. *Parent and teens together should invest time in wholesome activities that teach a teenager important lessons. If a teenager identifies with worthwhile values, the teen is more likely to have a positive self-image.*

Time spent with good friends. *A parent's expectations can influence a teenager's choice of friends. Meet your teenager's friends and their parents and interact with them as guests in your home. This will increase the likelihood that your teenager's friends will be people who are comfortable in the environment that is good for the teen.*

Clear rules that are agreed upon by both parents. As a child matures, it is very important that the teen knows rules of acceptable behavior. The chances of this occurring are much better if both parents agree in these important areas. When parents jointly set the standard of behavior for their teen, the chances of the child accepting those values are greatly increased.

Good decisions/greater freedoms. A teenager who does what is expected should be offered more freedom and a wider range of choices. It is helpful if a teenager is reminded of the good decisions that have caused the teen to be given more privileges. If a teen is helped to see that privileges are earned and not natural "rights" he or she will be more likely to realize that the key to getting more freedom is to behave well. If rules are not followed, appropriate consequences should result. A teenager who does not make good use of independence should have less of it.

3. Decision Making In Parenting A Teenager. The rearing of a teenager requires parents to make decisions about what their teen should be allowed to do, when, and with whom. At the same time, parents who live apart may have difficulty communicating with each other.

If parents are not able to agree, the teenager, who very much wants freedom from adult authority, should never be used as the "tie breaker." When parents live apart, it is more likely that a child will be required to make decisions, not as a healthy part of development, but simply to resolve disagreements between the parents.

As a general rule, a teenager should be involved in making important decisions if the parents agree the opportunity to make the decision is valuable, and the value of that opportunity outweighs any possible harm of a poor decision. If the parents feel the welfare of the child is dependent on the decision made, and if they allow the child to make a decision simply because they cannot agree, the parents are in danger of failing the child.

Example #1

Mary Jones and John Jones disagree as to whether or not their daughter, Sally, should study a foreign language in middle school. Mary feels that this early exposure to a foreign language will offer Sally an advantage when she continues this study in high school. John would like Sally to have the opportunity to develop her artistic talents through electives in drawing and painting. The Jones agree that Sally's success and happiness will in large part be determined by her motivation. They agree that Sally should decide between a foreign language and art, and that they will support whatever decision she makes.

Comment: Mary and John feel that Sally is mature enough to think about what interests her and makes her happy. They feel that an opportunity to do this in choosing an elective will be an important experience for Mary - more important than the relative merits of foreign language or art study to Sally's academic career. This is a good example of parents agreeing to involve the adolescent in making a decision that resolves their own disagreement.

Example #2

Tom Smith and Sue Smith cannot come to a visitation agreement. Tom believes their 17 year old son, Pete, should have visitation at a time to be determined by Pete. Tom feels that, if Pete is given a visitation schedule, he will feel that he is being forced to see his father. Tom further believes this will weaken his relationship with his son. Sue believes a clear plan regarding the time Tom and Pete spend together should be established. She says if Pete is not given a firm expectation of when he will be with Tom, it will be too easy for other activities in Pete's life to crowd out this priority. Unable to resolve this question, Tom and Sue give Pete the option of deciding if he would like a visitation schedule or if he would like to be free to see his father whenever he pleases.

Comment: Tom and Sue each feel the quality of Pete's relationship with Tom will depend on the way that visitation is structured. Each believes that, if Pete makes the wrong choice, the problems that follow could impact him throughout his adult life. They have placed the responsibility for the decision on Pete, not because the chance to make such a decision will help him, but because they cannot resolve the matter between themselves. This is a poor reason for entrusting an adolescent with such an important decision.

2. Special Considerations. In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

Commentary

Making Regular Parenting Time Workable. Parents must develop a parenting plan that evolves or changes as the teen matures. The needs of the child at age thirteen will be very different from the needs of that same child at age seventeen. Parents also must develop a parenting plan that assures regular involvement of both parents. This can be a particular challenge when the teen is involved with school, activities, and friends, and becomes even more difficult when the parents live some distance apart.

When parents differ in their views of which freedoms should be given and which should be withheld, the parents must be sufficiently united to keep the teenager from assuming responsibilities when the child is not ready. At the same time, the parents must respect that they will run their homes differently because they are living apart.

Living apart challenges parents to teach their child that different ways of doing things can work for different parents. They must see that their child needs to work especially hard to adapt to two distinct ways of doing things. Not all differences mean that one parent is right and one parent is wrong. The key is for parents to realize different homes can produce a well-adjusted teen.

Example: The Student Athlete

Jim Doe and Jane Doe have been divorced for 3 years. Their oldest child, Jeremy, is beginning high school. Throughout his middle school years, Jeremy

was active in football. Practices were held after school and games took place on weekends. Jeremy had spent alternating weekends and one night each week with his noncustodial parent. The parent who had Jeremy took him to practices and games during the time they were together. On week nights with the noncustodial parent, this usually consisted of dinner and conversation. Weekends with both parents included homework, chores, play, and family outings.

Jeremy's high school coach is serious about football. Jeremy loves the sport. Coach expects Jeremy to work out with teammates throughout the early summer. In August, practice occurs three times a day. Once school begins, Jeremy will practice after school for several hours each day. In addition, he is taking some difficult courses and expects that several hours of study will be needed each night. Jeremy will have games on Friday nights. Because of his busy weekend schedule, he expects that Saturdays will be his only time to be with friends.

Discussion

On the surface, a traditional parenting plan, placing Jeremy with his noncustodial parent on alternating weekends and one night each week, would not seem to work. Jeremy's athletic and academic demands will require him to work hard on weeknight evenings. Jeremy's parents agree he needs time to be with friends and he should be allowed to make social plans on Saturdays. They recognize Sundays will often need to be devoted to homework projects which do not fit into the busy weekday schedule.

A Possible Solution

Jeremy's parents want him to enjoy sports and have friends. Yet, they also want him to have the benefits of being actively raised by two parents. They want him to grow to become an adult who sees that balancing family, work, and play is important. They want to teach him how to do this.

Jeremy's parents have agreed to maintain their previous supervision plan. However, they have also agreed on some changes. Jeremy's noncustodial parent will come to the community of the custodial parent for midweek visitation. Regardless of how busy he is, Jeremy needs to eat. The noncustodial parent plans to take Jeremy to dinner at a restaurant that offers quick but healthy meals. They will spend the rest of the time at a local library where Jeremy can study. The noncustodial parent can offer help as needed or simply enjoy a good book. Jeremy's parents plan to purchase an inexpensive laptop computer to assist him when he works at the library.

Jeremy's parents plan that alternating weekends will continue to be spent with the noncustodial parent. They, like many parents of adolescents, understand Jeremy wants to be with his friends more than he wants to be with them. They recognize that, on weekends, they are offering more supervision and Jeremy's friends are getting more time. Yet, they also see the need to help Jeremy establish active family membership as one of his priorities.

D. HOLIDAY PARENTING TIME SCHEDULE

1. Conflicts Between Regular and Holiday Weekends.

The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines.

If the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating parenting time schedule will resume following the holiday. If the non-custodial parent receives two consecutive weekends because of a holiday, the regular alternating parenting time schedule will resume the following weekend with the custodial parent.

2. Holiday Schedule. The following parenting times are applicable in all situations referenced in these Guidelines as "scheduled holidays" with the limitations applied as indicated for children under the age of three (3) years.

A. Special Days.

[1] Mother's Day. With the child's mother from Friday at 6:00 P.M. until Sunday at 6:00 P.M.

[2] Father's Day. With the child's father from Friday at 6:00 P.M. until Sunday at 6:00 P.M.

[3] Child's Birthday. In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M. However, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

In odd numbered years the non-custodial parent shall have all of the children on each child's birthday on the day before the child's birthday from 9:00 A.M. until 9:00 P.M., however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M.

[4] Parent's Birthday. From 9:00 A.M. until 9:00 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.

B. Christmas Vacation.

One-half of the period which will begin at 8:00 P.M. on the evening the child is released from school and continues to December 30 at 7:00 P.M. If the parents cannot agree on the division of this period, the custodial parent shall have the first half in even-numbered years. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day. The winter vacation period shall apply to pre-school children and shall be determined by the vacation period of the public grade school in the custodial parent's school district.

C. Holidays.

In years ending with an even number, the non-custodial parent shall exercise the following parenting time:

[1] New Year's Eve and New Year's Day. (The date of the new year will determine odd or even year). From December 30th at 7:00 P.M to 7:00 P.M. of the evening before school resumes.

[2] Memorial Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.

[3] Labor Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.

[4] Thanksgiving. From 6:00 P.M. on Wednesday until 7:00 P.M. on Sunday.

In years ending with an odd number, the non-custodial parent shall exercise the following parenting time:

[1] Spring Break. From Friday at 6:00 P.M. through Sunday of the following weekend at 7:00 P.M.

[2] Easter. From Friday at 6:00 P.M. until Sunday at 7:00 P.M.

[3] Fourth of July. From 6:00 P.M. on July 3rd until 10:00 A.M. on July 5th.

[4] Halloween. On Halloween evening from 6:00 P.M. until 9:00 P.M. or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.

3. Religious Holidays. Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time

Commentary

Recognizing there are individuals of varying faiths who celebrate holidays other than those set out in the guidelines, the parties should try to work out a holiday visitation schedule that fairly divides the holidays which they celebrate over a two-year period in as equal a manner as possible.

SECTION III. PARENTING TIME WHEN DISTANCE IS A MAJOR FACTOR

Where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

1. General Rules Applicable. The general rules regarding parenting time as set forth in Section 1 of these guidelines shall apply.

2. Parenting Time Schedule. The parents shall make every effort to establish a reasonable parenting time schedule.

Commentary

When distance is a major factor, the following parenting time schedule may be helpful:

(A) Child Under 3 Years Of Age. *For a child under 3 years of age, the noncustodial parent shall have the option to exercise parenting time, in the community of the custodial parent, up to two five hour periods each week. The five hour period may occur on Saturday and Sunday on alternate weekends only.*

(B) Child 3 and 4 Years of Age. *For a child 3 and 4 years of age, up to six (6) one week segments annually, each separated by at least (6) weeks. Including the pickup and return of the child, no segment shall exceed eight (8) days.*

(C) Child 5 Years of Age and Older. *For a child 5 years of age and older, seven (7) weeks of the school summer vacation period and seven (7) days of the school winter vacation plus the entire spring break, including both weekends if applicable. Such parenting time, however, shall be arranged so that the custodial parent shall have religious holidays, if celebrated, in alternate years.*

3. Priority of Summer Visitation. Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.

4. Extended Parenting Time Notice. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.

5. Special Notice of Availability. When the non-custodial parent is in the area where the child resides, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

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These Guidelines shall be effective on March 31, 2001.

The Clerk of this Court is directed to forward a copy of this order to the Clerk of each Circuit Court in the State of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Supreme Court of Indiana; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; and Division of State Court Administration.

In addition, the Clerk is directed to forward a copy to Judge Daniel F. Donahue, Clark Circuit Court; the Indiana Family and Social Services Administration, Division of Family and Children and IV-D Support Divisions; Indiana State Bar Association, Family Law Section; Indiana Child Custody and Support Advisory Committee created under Ind. Code 33-2.1-10-1; the libraries of all law schools in the state; the Michie Company, and West Publishing Company.

West Publishing Company is directed to publish this order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this order to the attention of all judges within their respective counties and to post this order for examination by the Bar and general public.

Done at Indianapolis, Indiana this _____ day of _____ ,
2000.

FOR THE COURT

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.

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